

Declaration under 37 § CFR 1.132

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINA 22313

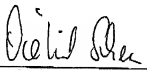
SIR:

Now comes Dr. Dietrich Scherzer who declares and states that

- (1) I obtained a Ph.D. from the University of Ulm, Germany, in the field of Organic Chemistry.
- ~~(2) I have been employed by BASF Aktiengesellschaft since 1985 where I have engaged in~~
(2) I have been employed by BASF Aktiengesellschaft since 1985 where I have engaged in the field of polymers, especially polymer foams.
- (3) My postal address is as follows:

BASF Aktiengesellschaft
GKT/R – B1
Carl-Bosch-Straße 38
67056 Ludwigshafen
Germany
- (4) I am a BASF representative responsible for the above-identified application.
- (5) In regard to the above-identified application, I have read the Specification; pending Claims, the Office Action of April 30, 2008, the disclosure of Dietzen et al. (US 7,045,085), and I am familiar with the issues associated with the present invention.
- (6) I declare the following concerning the polyether sulfone ULTRASON®2010 from BASF used in example 1 in Dietzen et al. and the polyether sulfone 3010E from BASF used in example 1 of the present invention (page 13, line 20).

- (7) The melting temperature and the melting behaviour of ULTRASON® 2010 and polyether sulfone 3010E are comparable.
- (8) Example 1 of Dietzen et al. can therefore directly compared with example 1 according to the present invention.
- (9) According to example 1 in Dietzen et al. the foaming temperatures for foaming ULTRASON® 2010 range from 243.8°C to 250.2°C (table 1, example 1, column 2).
- (10) However, according to example 1 according to the present invention (page 13, table 1, comparative example 1*) a closed-cell foam is formed at 249.1°C. Only if higher temperatures are used, an open-cell foam having an open cell factor of at least 75% is obtained.
- (11) Example 1 in Dietzen et al. does therefore not disclose polyether sulfone foams having an open cell factor of at least 75%.
- (12) The undersigned Petitioner declare further that all statements made herein of their own knowledge are true and that all statements made on information and belief are believed to be true; and further that ~~these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both,~~ under Section 1001 of Title 18 of the United States Code and that such willful false statement may jeopardize the validity of this application or any patent issuing thereon.
- (13) Further deponents saith not.



Dr. Dietrich Scherzer

August 22nd 2008

Date